Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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NO. 85-978

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1985

MOSE KOREY,

Petitioner,

VS.

CITY OF DAVENPORT, IOWA,

Respondent.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

REPLY BRIEF

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TABLE OF CONTENTS

	PAGE
TABLE OF CONTENTS	i
RULE OF PROCEDURE INVOLVED	ii
STATEMENT OF THE CASE	1
ARGUMENT	2
CONCLUSION	6
CERTIFICATE OF SERVICE	8

RULE OF PROCEDURE INVOLVED

Supreme Court Rules:

Rule 28.2: (In pertinent part)

> ".2. To be timely filed, a document must be received by the Clerk within the time specified for filing, except that any document shall be deemed timely filed if it has been deposited in a United States post office or mailbox, with first-class postage prepaid, and properly addressed to the Clerk of this Court, within the time allowed for filing, and if there is filed with the Clerk a notarized statement by a member of the Bar of this Court, setting forth the details of the mailing, and stating that to his knowledge the mailing took place on a particular date within the permitted time."

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STATEMENT OF THE CASE

Petitioner MOSE KOREY is submitting this REPLY BRIEF in order to address a number of points raised in Respondent's BRIEF IN OPPOSITION and to re-emphasize Petitioner's bases for this PETITION FOR WRIT OF CERTIORARI.

ARGUMENT

I. RESPONDENT HAS NOT PRESENTED SUFFICIENT ARGUMENTS TO OVERCOME THOSE PRESENTED IN PETITION FOR WRIT OF CERTIORARI.

A. Respondent admits to certain facts alleged by Petitioner as bases for his position that his claims are not barred by any applicable statute of limitations.

On page two (2) of BRIEF IN OPPOSITION Respondent agrees that "An order was issued setting a hearing for a temporary injunction and directing the City to take no further action pending the hearing."

This supports Petitioner's position that the City proceeded to violate the said Temporary Restraining Order the very next day, and that all valid condemnation proceedings ceased at that time, and that therefore, there

was no "valid governmental action" to protect the Defendant City from Petitioner's complaint that federally protected property rights were infringed, and that the issues Petitioner is raising involve important or substantial questions of practice and judicial administration.

B. In the absence of any court order or local rule of the United States Court of Appeals for the Eighth Circuit to the contrary, it remains Petitioner's position that Petitioner's PETITION FOR REHEARING BY PANEL was timely filed, particularly since it is the practice of the Supreme Court, as found in Supreme Court Rules, Rule 28.2, "....that any document shall be deemed timely filed if it has been deposited in a United States post office or mail-

box, with first-class postage prepaid, and properly addressed to the Clerk of this Court, within the time allowed for filing, (emphasis added) and there is filed with the Clerk a notarized statement....".

Petitioner calls the Court's attention to the fact that, in Petitioner's PETITION FOR REHEARING BY PANEL, on page 12, is found the notarized CERTIFICATE OF SERVICE, signed by Petitioner, dated August 28, 1985, which was within the time allowed for filing, and Petitioner further asserts that the said notarized CERTIFICATE OF SERVICE constitutes the equivalent, for a Pro Se Petitioner, of the notarized statement of a member of the Bar of this Court, which is mentioned in said Supreme Court Rule 28.2.

C. The various court citations presented by Respondent in the BRIEF IN OPPOSITION do not address the issues raised by Petitioner, to wit:

1. fraud
2. fraudulent concealment
3. the fiduciary relationship between Petitioner and Defendant City
4. Violation of Temporary Restraining Order by Defendant City,

and their consequent tolling of the statute of limitations and their negation of other issues presented by Respondent City.

Petitioner has consistently challenged the validity of the alleged condemnation proceedings, including his refusal to accept the funds awarded by

the jury of January 19, 1972. Petitioner was thereby unable to invest these funds and collect a considerable amount of interest. Petitioner accepted the payment, after ten years, under protest, in order to protect his interests.

CONCLUSION

WHEREFORE, Certiorari should be granted.

Respectfully submitted,

Mose Korey

MOSE KOREY, Pro Se
3026 Belle Avenue
Davenport, Iowa 52803

Phone: (319) 359-0272
(319) 323-8945

STATE OF IOWA)
) SS:
COUNTY OF SCOTT)

VERIFICATION

I, MOSE KOREY, being first duly sworn, state and depose that I have read the foregoing REPLY BRIEF, that I am familiar with it's content, and that I understand it and swear that everything therein is true and correct to the best of my information, personal knowledge and belief.

Mose Korey

MOSE KOREY

Subscribed and sworn to before me on this 21st day of January, 1986.

Jean Mateer

NOTARY PUBLIC

STATE OF IOWA)
) SS:
COUNTY OF SCOTT)

CERTIFICATE OF SERVICE

This is to certify that the undersigned did on this 21st day of January, 1986, deposit in the U.S. Mail, postage prepaid for delivery by first class mail to the following addressee:

1. Mr. Alexander L. Stevas, Clerk
United States Supreme
Court Building
1 First Street, N.E.
Washington, D.C. 20543

forty-three copies of:

REPLY BRIEF

for filing, of which three (3) copies are to be returned to Petitioner after filing.

2. Patricia Rhodes Cepican
3432 Jersey Ridge Road
Davenport, Iowa 52807

three (3) copies of same document.

I further certify that, in compliance with Supreme Court Rule 28.5(c), all parties required to be served have been served.

Mose Korey
MOSE KOREY

Subscribed and sworn
to before me on this
21st day of January, 1986.

Jean Mateer
NOTARY PUBLIC

JEAN MATEER
MY COMMISSION EXPIRES
8-29-88